



In re Scott

United States Court of Appeals for the Fourth Circuit

April 17, 2018, Submitted; April 20, 2018, Decided

No. 18-1140

Reporter

719 Fed. Appx. 281 *; 2018 U.S. App. LEXIS 10053 **; 2018 WL 1887509

In re: MELINDA L. SCOTT, Petitioner.

Notice: PLEASE REFER TO *FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1* GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Prior History: **[**1]** On Petition for Writ of Mandamus. (2:17-cv-00050-JPJ-PMS).

Scott v. Lyall, 2018 U.S. Dist. LEXIS 3015 (W.D. Va., Jan. 8, 2018)

Counsel: Melinda L. Scott, Petitioner, Pro se.

Judges: Before WILKINSON and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Opinion

[*282] PER CURIAM:

Melinda L. Scott petitions for a writ of mandamus seeking an order directing the district court and two Virginia state courts to permit her to proceed with an appeal in state court without paying an appeal bond. We conclude that Scott is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402, 96 S. Ct. 2119, 48 L. Ed. 2d 725 (1976); *United States v. Moussaoui*, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the

petitioner has a clear right to the relief sought. *In re First Fed. Sav. & Loan Ass'n*, 860 F.2d 135, 138 (4th Cir. 1988). This court does not have jurisdiction to grant mandamus relief against state officials. *Gurley v. Superior Court of Mecklenburg Cty.*, 411 F.2d 586, 587 (4th Cir. 1969). In addition, mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007).

The relief sought by Scott is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED

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